

TITLE 44
LABOR

CHAPTER 17
DISCRIMINATORY WAGE RATES BASED UPON SEX

44-1701. DEFINITIONS. As used in this act:

- (1) "Employee" means any individual employed by an employer, including individuals employed by the state or any of its political subdivisions.
- (2) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee.
- (3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the director in regulations issued under this act.
- (4) "Employ" includes to suffer or permit to work.
- (5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.
- (6) "Director" means the director of the human rights commission.

[44-1701, added 1969, ch. 252, sec. 1, p. 783; am. 1974, ch. 39, sec. 69, p. 1023; am. 1982, ch. 83, sec. 6, p. 157.]

44-1702. DISCRIMINATORY PAYMENT OF WAGES BASED UPON SEX PROHIBITED. (1) No employer shall discriminate between or among employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, are not within this prohibition.

(2) No person shall cause or attempt to cause an employer to discriminate against any employee in violation of this act.

(3) No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this act.

[44-1702, added 1969, ch. 252, sec. 2, p. 783.]

44-1703. POWERS AND DUTIES OF DIRECTOR WITH RESPECT TO UNLAWFUL PAY PRACTICES. (1) The director is authorized to endeavor to eliminate pay practices unlawful under this act, by informal methods of conference, conciliation and persuasion, and to supervise the payment of wages owing to any employee under this act.

(2) The director shall have power to issue such regulations, not inconsistent with the purpose of this act, as he deems necessary or appropriate to carry out its provisions.

(3) Employers shall be furnished copies or abstracts of this act and such regulations by the director on request without charge.

[44-1703, added 1969, ch. 252, sec. 3, p. 783; am. 1974, ch. 39, sec. 70, p. 1023.]

44-1704. PROCEDURES FOR COLLECTION OF UNPAID WAGES. (1) Any employer who violates the provisions of section [44-1702](#), Idaho Code, shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of wilful violation in employee suits under subsection (2) of this section, up to an additional equal amount as liquidated damages.

(2) Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(3) No agreement by any such employee to work for less than the wage to which such employee is entitled under this act shall be a bar to any such action, or to a voluntary wage restitution of the full amount due under this act.

(4) At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under this act, the director may bring any legal action necessary in behalf of the employee to collect such claim for unpaid wages. The director shall not be required to pay the filing fee, or other costs, in connection with such action. The director shall have power to join various claims against the employer in one (1) cause of action.

(5) In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this act.

(6) The director shall have power to petition any court of competent jurisdiction to restrain violations of section [44-1702](#), Idaho Code, and for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this act.

[44-1704, added 1969, ch. 252, sec. 4, p. 783; am. 1974, ch. 39, sec. 71, p. 1023.]